



SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-259, OMB Control No. 3235-0269]

Proposed Collection; Comment Request; Extension: Rule 17f-5

Upon Written Request, Copies Available From

Securities and Exchange Commission

Office of FOIA Services

100 F Street, NE

Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), the Securities and Exchange Commission (“Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f-5 (17 CFR 270.17f-5) under the Investment Company Act of 1940 [15 U.S.C. 80a] (the “Act”) governs the custody of the assets of registered management investment companies (“funds”) with custodians outside the United States. Under rule 17f-5, a fund or its foreign custody manager (as delegated by the fund’s board) may maintain the fund’s foreign assets in the care of an eligible fund custodian under certain conditions. If the fund’s board delegates to a foreign custody manager authority to place foreign assets, the fund’s board must find that it is reasonable to rely on each delegate the board selects to act as the fund’s foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund’s assets are placed with a foreign custodian and when any material change occurs in the fund’s custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care, in performing the delegated services. When the foreign custody manager selects an eligible foreign custodian, it must determine that

the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the performance of the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f-5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,¹ and that is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes

¹ See section 17(f) of the Act. 15 U.S.C. 80a-17(f).

appropriate action if developing custody risks may threaten fund assets.²

Commission staff estimates that each year, approximately 62 registrants³ could be required to make an average of one response per registrant under rule 17f-5. A “response” may involve the fund’s directors making certain findings concerning foreign custody managers, and the review and ratification of custodial contracts. Commission staff estimates a response relating to these matters will require approximately 2.5 hours of board of director time per response, to make the necessary findings concerning foreign custody managers, and 1 hour of related compliance attorney time per response, to assist the fund board.⁴ For registrants, the total annual burden associated with these requirements of the rule is up to approximately 217 hours (62 responses x 3.5 hours per response).

Foreign custody managers are also affected by the collection of information requirements under rule 17f-5. Commission staff estimate that, in connection with each registrant’s board of directors making certain findings concerning a foreign custody manager, those findings will require approximately 20 hours of trust administrator time from the applicable manager. This burden relates to the foreign custody manager’s initial considerations regarding custodial arrangements with the registrant and preparing reports to the fund board.⁵ Commission staff further estimate that annually, approximately 15 foreign custody managers will be required to

² The staff believes that subcustodian monitoring does not involve “collection of information” within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 - 3520) (“Paperwork Reduction Act”).

³ This figure is an estimate of the number of new management investment company registrants each year, based on data reported on Form N-CEN as of December 2019, 2020, and 2021. Commission staff anticipates that the number of existing registrants that change their foreign custody managers is negligible and, therefore, the compliance burden of rule 17f-5 falls primarily on new registrants. In practice, not all registrants will use foreign custody managers. The actual figure therefore may be smaller.

⁴ As discussed below, Commission staff estimate that a response from a registrant will also include a related burden for the applicable foreign custody manager chosen by the registrant’s board of directors.

⁵ This estimate does not include burden hours related to the establishment and/or amendment of the foreign custody manager’s system for monitoring custody arrangements for its clients, which is accounted for separately as discussed below.

make an average of 4 responses per manager concerning the use of foreign custodians other than depositories.⁶ This “response” may involve the foreign custody manager establishing bank custody arrangements, negotiating/re negotiating custodial contracts, preparing reports to fund boards, and establishing and/or amending the foreign custody manager’s system for monitoring custody arrangements for its clients. The staff estimates that each response will take approximately 250 hours of trust administrator time, requiring approximately 1000 total hours annually per foreign custody manager (4 responses per foreign custody manager x 250 hours per response). Thus, the total annual burden for foreign custody managers associated with the requirements of the rule is approximately 16,240 hours ((62 responses by foreign custody managers x 20 hours per response) + (15 foreign custody managers x 4 responses per manager) x 250 hours per response).

Therefore, the total annual burden of all collection of information requirements of rule 17f-5 is estimated to be up to 16,457 hours (217 hours + 16,240 hours). The total monetized annual cost of burden hours is estimated to be \$5,166,833 ((217 hours x \$3,529/hour blended wage rate) + (16,240 hours x \$271/hour for a trust administrator’s time)).⁷ Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule’s permission for funds to maintain their assets with foreign custodians.

The estimate of average burden hours is made solely for the purposes of the Paperwork

⁶ This figure is based on the staff’s estimate of the number of global custodians that may act as foreign custody managers under rule 17f-5.

⁷ The rates used to create the blended rate are as follow: board of director time - \$4,770 and compliance attorney time - \$425. Staff estimates concerning wage rates for the cost of board of director time are based on fund industry representations. Based on fund industry representations, the staff estimated in 2014 that the average cost of board of director time, for the board as a whole, was \$4,000 per hour. Adjusting for inflation, the staff estimates that the current average cost of board of director time is approximately \$4,770 per hour. Estimates concerning wage rates for compliance attorneys and trust administrators are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association and modified by Commission staff for 2023. The compliance attorney and trust administrator wage figures are based on published rates for each, modified to account for a 1800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead. See Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

Reduction Act. The estimate is not derived from a comprehensive or representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street, NE Washington, DC 20549 or send an e-mail to: PRA_Mailbox@sec.gov .

Dated: March 2, 2023.

Sherry R. Haywood,

Assistant Secretary.